

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: December 9, 2020
RE: Zoning Board of Adjustment December 15, 2020 Meeting

OLD BUSINESS

1. 150 Greenleaf Avenue
2. 145 Maplewood Avenue

NEW BUSINESS

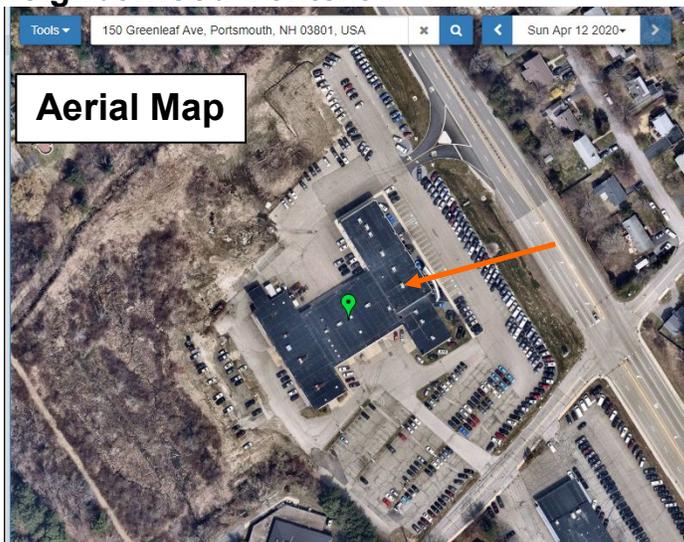
1. 160 Bartlett Street
2. 25 Morning Street
3. 303 Thornton Street

OLD BUSINESS

1.

Petition of **150 Greenleaf Avenue Realty Trust, Owner**, for property located at **150 Greenleaf Avenue** for Appeal of an Administrative Decision that the following are required: 1) A Variance from Section 10-208 Table 4 - Uses in Business Districts (2009 Ordinance, Section 10.592.20 in current Ordinance) that requires a 200 foot setback from any adjoining Residential or Mixed Residential district for motor vehicle sales. 2) A Variance from Section 10-1201, Off-Street Parking (2009 Ordinance, Section 10.1113.30 in current Ordinance) that requires a 100 foot setback for business parking areas from any adjoining Residential or Mixed Residential district. 3) A Wetland Conditional Use Permit for development within the Inland Wetlands Protection District. Said property is shown on Assessor Map 243 Lot 67 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

Neighborhood Context



Planning Department Comments

The appellant is appealing a determination of the Planning Director that variances are needed as well as a Wetland conditional use permit for further development of the subject property. The Planning Director's original letter that is being appealed is included in the appellant's submission. A separate memo from the Legal Department is included which provides the Board additional background on the property.

2.

Petition of **111 Maplewood Avenue, LLC, Owner**, for property located at **145 Maplewood Avenue** wherein relief is needed from the Zoning Ordinance for signage for new building which requires the following: 1) A Variance from Section 10.1251.20 to allow a 57 square foot freestanding sign where 20 square feet is the maximum allowed. 2) A Variance from Section 10.1242 to allow wall signs above the ground floor on all sides of the building. 3) A Variance from Section 10.1242 to allow wall signs above the ground floor on a side of a building not facing a street. 4) A Variance from Section 10.1144.63 to allow illuminated signs above 25 feet from grade. Said property is shown on Assessor Map 124 Lot 8-1 and lies within the Character District 5 (CD5) District.

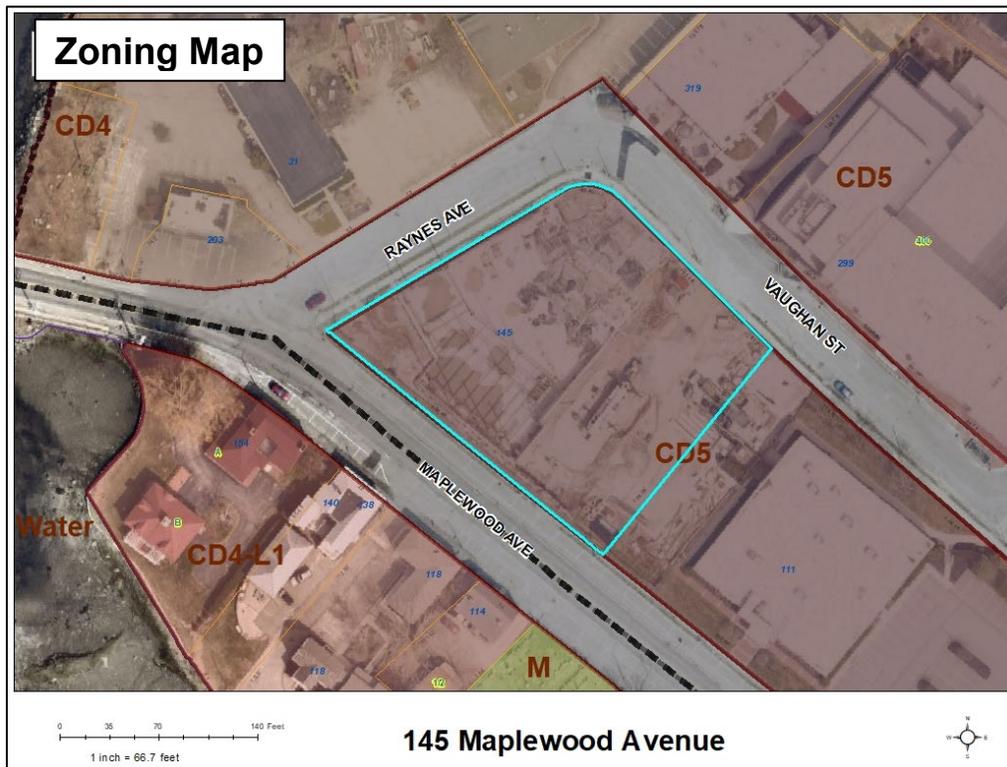
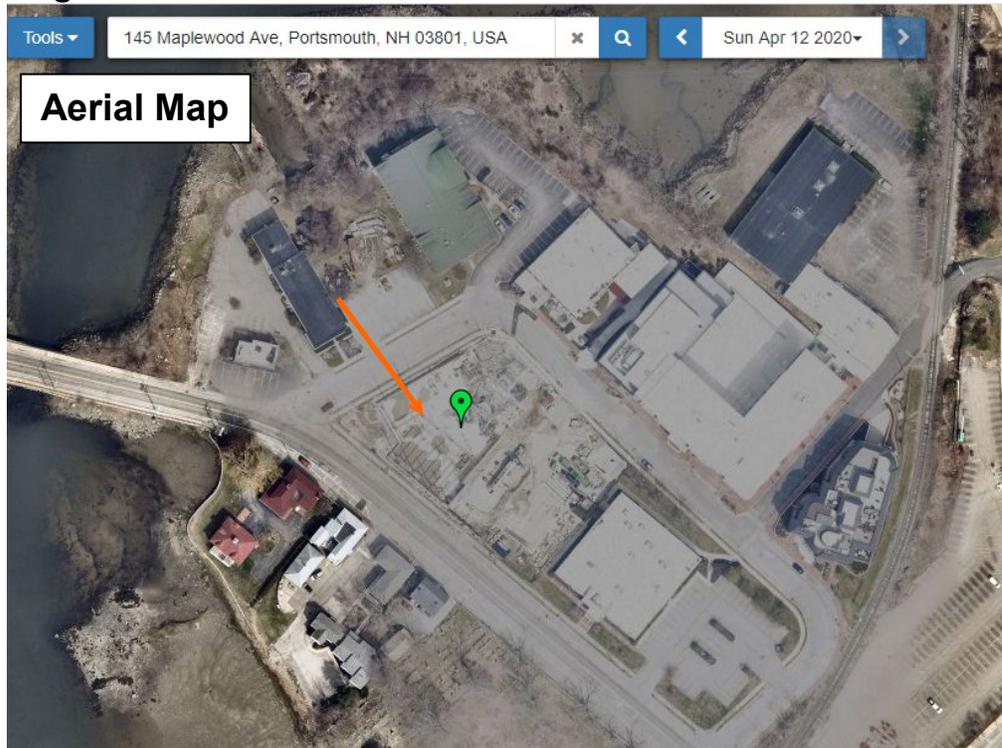
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	New commercial building	Signage for new building	Primarily mixed use
<u>Free standing sign (sq. ft.):</u>	NA	57*	20 max.
<u>Wall Sign Location:</u>	NA	5 signs and 31 decorative lights above ground floor*	One wall sign permitted above ground floor
<u>Illuminated Sign height (ft.):</u>	NA	>25	20 max.
			Variance requests shown in red. *Variances granted Nov. 24, 2020

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

November 24, 2020 – The Board approved the following: 1) A Variance from Section 10.1251.20 to allow a 57 square foot freestanding sign where 20 square feet is the maximum allowed. 2) A Variance from Section 10.1242 to allow wall signs above the ground floor on all sides of the building. 3) A Variance from Section 10.1242 to allow wall signs above the ground floor on a side of a building not facing a street.

Planning Department Comments

The first 3 variances were granted at the previous meeting in November, with the fourth request being postponed until the applicant can provide a night time rendering for the Board to consider. Per Section 10.1144.60, luminaires can be mounted up to 20 feet above grade if they comply with the lumen standards referenced in the section. Section 10.1144.63 states the following:

10.1144.63 **Luminaires** used primarily for **sign illumination** may be mounted at any height to a maximum of 25 feet, regardless of **lumen** rating.

The applicant states the luminaires will comply with the lumen requirements and questions the need for relief from the section above, however the section clearly states that the maximum height for luminaires is 25 feet, regardless of the lumen rating.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

NEW BUSINESS

1.

Petition of **Jonathan Sandberg, Owner**, for property located at **160 Bartlett Street** whereas relief is needed from the Zoning Ordinance to construct a 6' x 15' mudroom addition on the rear of the house which requires the following: 1) A Variance from Section 10.521 to allow 34% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 163 Lot 5 and lies within the General Residence A (GRA) District.

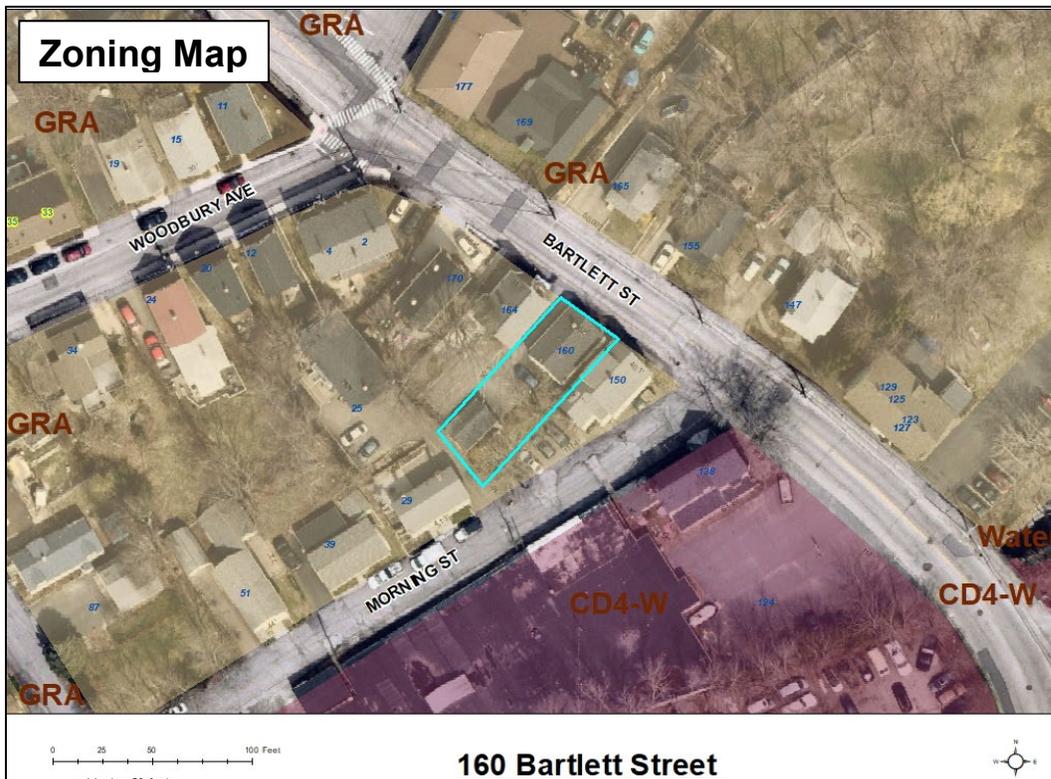
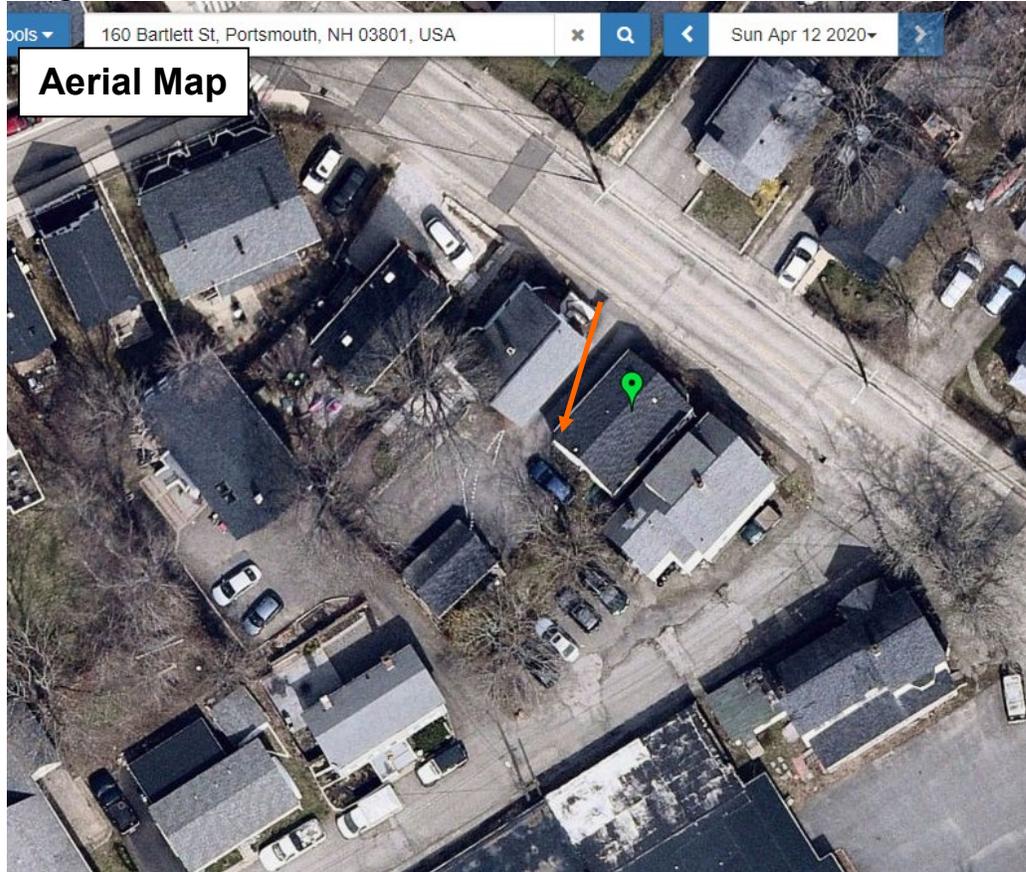
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Construct rear addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,484	3,484	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,484	3,484	7,500 min.
<u>Street Frontage (ft.):</u>	36	36	100 min.
<u>Lot depth (ft.):</u>	98	98	70 min.
<u>Front Yard (ft.):</u>	3	3	15 min.
<u>Right Yard (ft.):</u>	10	10	10 min.
<u>Left Yard (ft.):</u>	1	10	10 min.
<u>Rear Yard (ft.):</u>	62	56	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	31	34	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1832	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing a mudroom on the rear of the house that will comply with yard requirements but will increase the building coverage to 34% where 25% is the maximum allowed in the district.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*

(a) The property has special conditions that distinguish it from other properties in the area.

AND

(b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

2.

Petition of **The Rice Family Revocable Trust of 1988, Owner**, for property located at **25 Morning Street, Unit B** whereas relief is needed from the Zoning Ordinance to construct a 6' x 21' deck which requires the following: 1) Variances from Section 10.521 to allow a) a 2 foot side yard where 10 feet is required; and b) 32% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 163 Lot 19-2 and lies within the General Residence A (GRA) District.

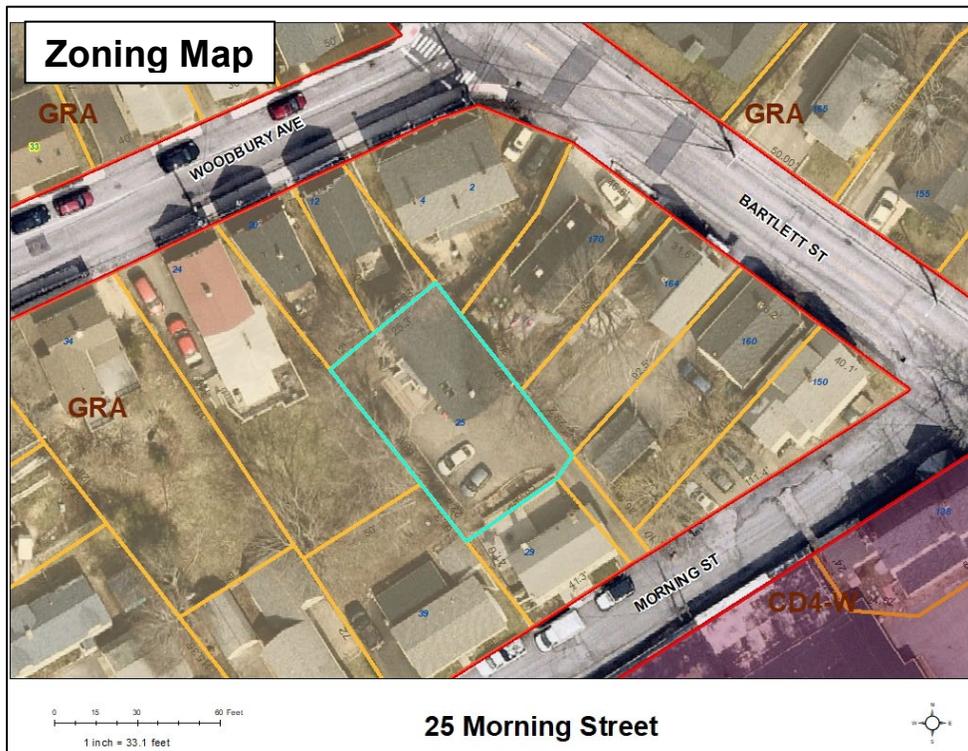
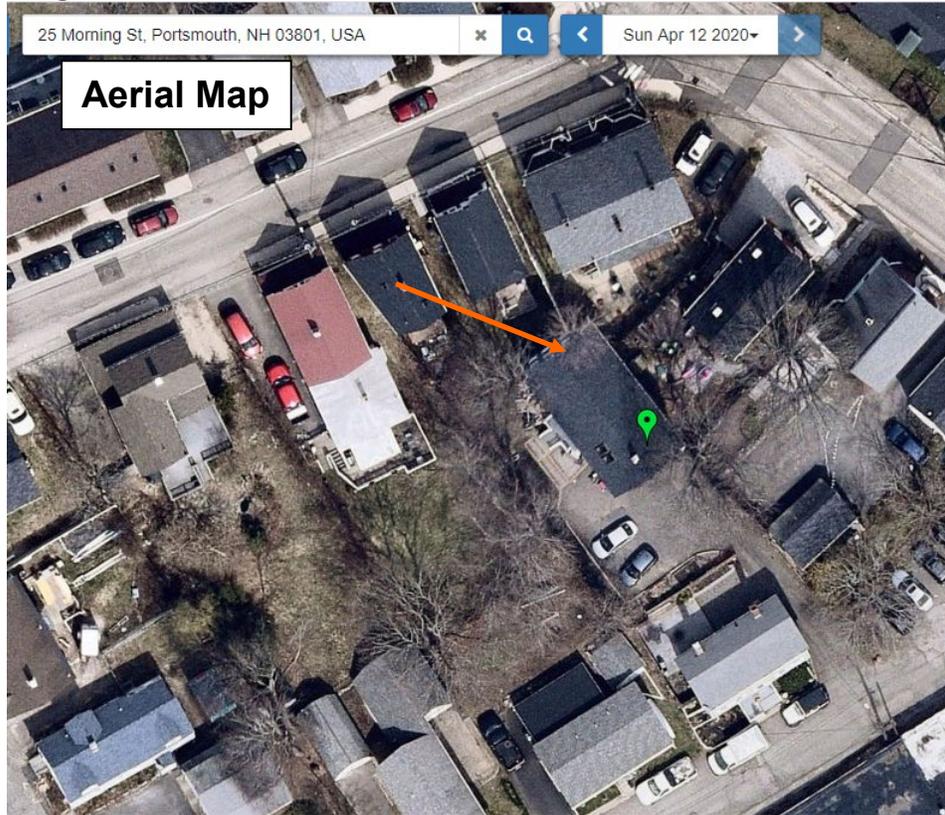
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two family	Construct deck	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4160	4160	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2080	2080	7,500 min.
<u>Street Frontage (ft.):</u>	10	10	100 min.
<u>Lot depth (ft.):</u>	80	80	70 min.
<u>Front Yard (ft.):</u>	38	32	15 min.
<u>Right Yard (ft.):</u>	1	2	10 min.
<u>Left Yard (ft.):</u>	14	14	10 min.
<u>Rear Yard (ft.):</u>	1	1	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	28.5	32	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	4	4	3
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to construct an attached deck on the existing structure which will increase the building coverage to 32% where 25% is the maximum allowed in the district. The existing structure is approximately 1 foot off of the right side property line and the proposed deck will be 2 feet from the side lot line.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

3.

Petition of **Sean Miller, Owner**, for property located at **303 Thornton Street** whereas relief is needed from the Zoning Ordinance to construct an addition to an existing home which requires the following: 1) A Variance from Section 10.521 to allow a 5 foot front yard where 15 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 162 Lot 5 and lies within the General Residence A (GRA) District.

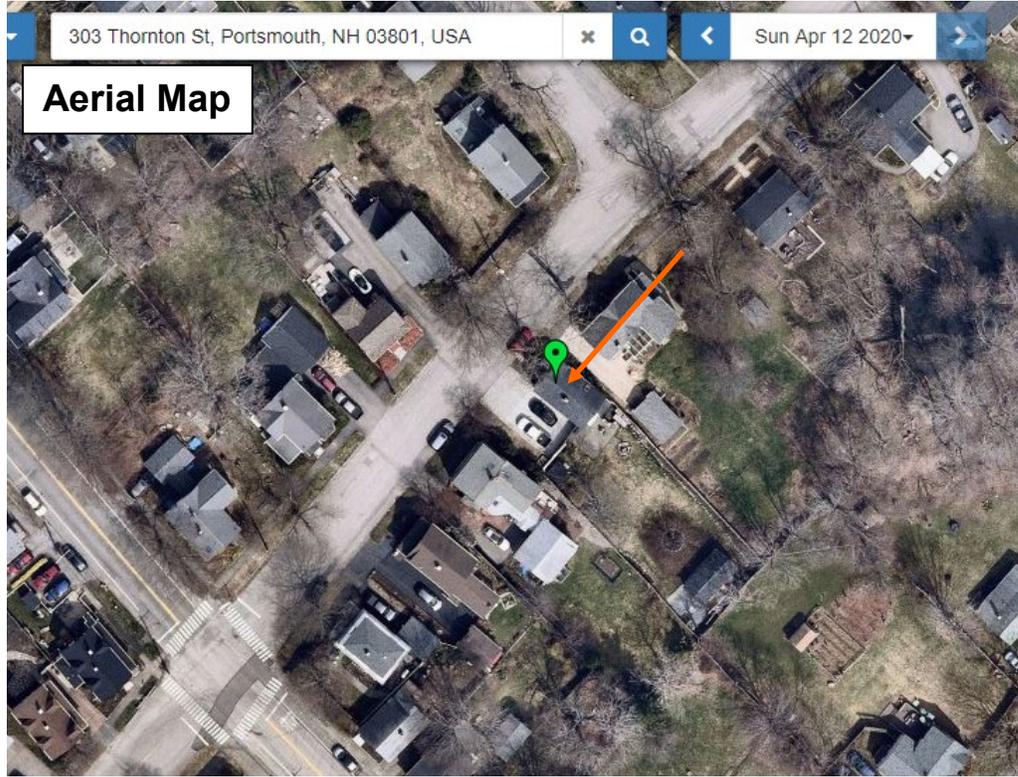
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add front addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	8,276	8,276	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,276	8,276	7,500 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Lot depth (ft.):</u>	150	150	70 min.
<u>Front Yard (ft.):</u>	5	5	15 min.
<u>Right Yard (ft.):</u>	27	15	10 min.
<u>Left Yard (ft.):</u>	6	6	10 min.
<u>Rear Yard (ft.):</u>	112	112	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	7.6	12	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1860	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to right side front addition in line with the exiting front of the house. The lot exceeds the minimum lot size, however the existing location of the house is 5 feet from the front property line. The project will conform to all other dimensional requirements of the Ordinance and will not encroach further into the front yard than the existing alignment. The application of Section 10.516.10 for existing front yard alignments does not benefit the applicant, as the average is greater than 5 feet. However, most of the adjacent homes on either side are just as close, if not closer to the front lot line.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.